



# Department of Justice

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## **JUSTICE DEPARTMENT REACHES SETTLEMENT WITH THE MULTIPLE LISTING SERVICE OF HILTON HEAD ISLAND INC.**

### ***Group Changes Rules to Allow Low-Priced and Innovative Real Estate Brokers to Compete***

WASHINGTON — The Department of Justice announced today that it has reached a settlement with Multiple Listing Service of Hilton Head Island Inc. (HHMLS) that requires the group to change its membership rules so that low-priced and innovative real estate brokers can compete in the Hilton Head area. The Department said that the rules caused consumers to pay more for residential real estate brokerage services in the Hilton Head area.

The Department's Antitrust Division filed a civil antitrust lawsuit in U.S. District Court in South Carolina against HHMLS. At the same time the parties filed a proposed settlement that, if approved by the court, would require changes to HHMLS's rules to resolve the Department's competitive concerns.

"Today's settlement will remove unlawful impediments to competition for real estate brokerage services in the Hilton Head area, which should lead to increased options and reduced brokerage fees for consumers," said Thomas O. Barnett, Assistant Attorney General for the Department's Antitrust Division. "This settlement further demonstrates the Department of Justice's commitment to preserve competition in the real estate brokerage industry."

A multiple listing service (MLS) is a local or regional joint venture of real estate brokers that combines its members' home listings information into an electronic database that is made available to all real estate brokers who are members of the MLS. This database serves as a clearinghouse for the members to communicate important information among themselves, such as descriptions of the listed properties for sale and offers to compensate other members as cooperating brokers if they locate purchasers for those listings. In addition, the database allows member brokers who represent buyers to search for nearly all the listed properties in the area that match the buyer's needs. Because the MLS's database is the primary source of home listings information on virtually every home listed for sale in a given area, access to the database—and therefore MLS membership—is critical for any real estate broker seeking to serve clients successfully in the MLS's service area. Consequently, the rules adopted by the MLS governing who can be a member and how members must behave can have a significant impact on competition among real estate brokers in the area served by the MLS.

HHMLS adopted and enforced rules that restrained competition among brokers on Hilton Head Island in several ways. HHMLS imposed burdensome prerequisites to membership that

prevented some real estate brokers, such as those who would likely compete aggressively on price or would introduce Internet-based brokerage, from listing homes for sale in the MLS's database, ensuring that those brokers could not compete in the Hilton Head area. HHMLS also stabilized the price of brokerage services by forcing its broker members to provide a certain set of brokerage services regardless whether a client wanted the required services. In addition, HHMLS granted its Board of Trustees authority to adopt rules that, if implemented, would stabilize the price of brokerage services by directly regulating the commissions that brokers pay each other, and limit consumers' options by treating Internet-based brokers less favorably than traditional full service real estate brokers.

The proposed settlement with HHMLS requires it to rescind these and related rules, and prohibits HHMLS from adopting new rules that have the effect of excluding real estate brokers from membership based on such criteria as their business model or price structure and that dictate the services and prices that its members must offer to their clients. The Department said that this will ensure that HHMLS does not exclude from membership real estate brokers who might be likely to adopt innovative business models, offer services at discount prices, or offer a subset of the services that traditional full service real estate brokers provide.

The proposed settlement, along with the Department's competitive impact statement, will be published in the Federal Register, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments regarding the proposed final judgment within 60 days of its publication to John R. Read, Chief, Litigation III Section, Antitrust Division, U.S. Department of Justice, 325 7th Street, NW, Suite 300, Washington, D.C. 20530 (Tel: 202-307-0468). At the conclusion of the 60-day comment period, the court may enter the proposed final judgment upon a finding that it serves the public interest.

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